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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/448,617	11/23/1999	DALE E. OLSEN	1416-FBI	5242

7590

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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 08/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/448,617

Applicant(s)

OLSEN, DALE E.

Examiner

Kathleen M Christman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05/30/2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16,22-37,43,49,50,52 and 60-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16,22-37,43,49,50,52 and 60-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

In response to the amendment filed 05/30/2003, claims 1-16, 22-37, 43, 49, 50, 52, and 60-65 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1, 2, 4-6, 9, 10, 14, 15, 43, and 61-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844) in view of Best (US 5358259) further in view of Knight et al (US 5676551) for the reasons set forth in the non-action dated 11/29/2002 (Paper No. 13) and incorporated herein. In addition to the above, Knight et al teaches the newly added limitation of "wherein said emotional model is initialized without input from the user" in Figure 7, reference numeral 730.

2. Claims 3, 7, 8, 11-13, 16, 22-37, 49, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al (US 5864844) in view of Best (US 5358259) further in view of Knight et al (US 5676551), further in view of Harless (US 5730603) for the reasons set forth in the non-action dated

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11/29/2002 (Paper No. 13) and incorporated herein. In addition to the above, Knight et al teaches the newly added limitation of "wherein said emotional model is initialized without input from the user" in Figure 7, reference numeral 730.

3. Claims 60, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harless (US 5730603) in view of Best (US 5358259) further in view of Knight et al (US 5676551) for the reasons set forth is the non-action dated 11/29/2002 (Paper No. 13) and incorporated herein. In addition to the above, Knight et al teaches the newly added limitation of "wherein said emotional model is initialized without input from the user" in Figure 7, reference numeral 730.

Response to Arguments

4. Applicant's arguments filed 05/30/2003 have been fully considered but they are not persuasive. The applicant's primary argument is that the neither the James, Best nor Knight et al teach the newly added limitation of "wherein said emotional model is initialized without input from the user" as added to each of the independent claims. The examiner notes that Knight et al has been relied upon for the teaches of the emotional model. Knight et al teach in Figure 7, reference numeral 730 and its supporting disclosure, that when the user fails to make and entry into the system regarding an emotional state that the computer will choose for them. As such Knight et al clearly teaches the newly added limitation.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- a. "A Computational Architecture to Model Human Emotions"- Chandra, A. Intelligent Information Systems, 1997. IIS '97. Pages 86-89
 - b. Kleindienst et al (US 6598020 B1) teaches a system which simulates human emotions

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Theresa Wahlberg can be reached on (703) 308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Kathleen Christman
July 28, 2003


JOHN EDMUND ROVNAR
PRIMARY EXAMINER